



Practitioner's Docket No. NSEE 2 00005

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: David Boll et al.

Application No.: 10 / 669,761

Group No. 3754

Filed: 09/24/2003

Examiner: N/A

For: **MOTORIZED SOAP DISPENSER**

Mail Stop Missing Parts

Commissioner for Patents

P.O. Box 1450, Alexandria, VA 22313-1450

**PETITION TO ESTABLISH PRIOR RECEIPT IN THE P.T.O. OF ITEM(S)  
CONSIDERED AS OMITTED BY THE P.T.O.—RESPONSE TO**

☒ **"NOTICE OF OMITTED ITEMS"**

☐ **"NOTICE OF INCOMPLETE APPLICATION"**

**NONPROVISIONAL APPLICATION**

**NOTE:** "The Office of Initial Patent Examination (OIPE) reviews application papers to determine whether all of the pages of specification are present in the application. If the application is filed without all of the page(s) of the specification, but containing something that can be construed as a written description, at least one drawing figure, if necessary under 35 U.S.C. 113 (first sentence), and, in a nonprovisional application, at least one claim, OIPE will mail a "Notice of Omitted Items" indicating that the application papers so deposited have been accorded a filing date, but are lacking some page(s) of the specification." MPEP, § 601.01(d), 7th Edition.

**WARNING:** This submission must be "within two months of the date of the 'Notice of Omitted Items' (37 C.F.R. 1.181(f))." Notice of June 5, 1996, 61 Fed. Reg. 30,041, 30,041 (Jun. 5, 1996). See also § 601.01(d), MPEP, 7th Edition, "As an applicant may, but is not required, to reply to such a 'Notice of Omitted Items,' extensions of time under 37 CFR 1.136 will *not* be applicable to this 2-month period." (emphasis in original).

**EXPRESS MAILING UNDER 37 C.F.R. § 1.10\***

(Express Mail label number is mandatory.)

(Express Mail certification is optional.)

I hereby certify that this paper, along with any document referred to, is being deposited with the United States Postal Service on this date **January 23, 2004**, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 as "Express Mail Post Office to Addressee" Mailing Label No. **EL 998016435 US**

**Christie L. Cermak**

(type or print name of person mailing paper)

*Christie L. Cermak*

Signature of person certifying

**WARNING:** Certificate of mailing (first class) or facsimile transmission procedures of 37 C.F.R. 1.8 cannot be used to obtain a date of mailing or transmission for this correspondence.

**\*WARNING:** Each paper or fee filed by "Express Mail" must have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. 1.10(b).

"Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

(Petition to Establish Prior Receipt in the P.T.O. of Item(s) Considered as Omitted by the P.T.O.—Response to  
☐ "Notice of Omitted Items" ☐ "Notice of Incomplete Application"—Nonprovisional Application [5-11]

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NOTE: "While an applicant willing to accept a nonprovisional application as deposited in the PTO need not respond to the 'Notice of Omitted Items,' the filing of an express communication to that effect would permit the PTO to proceed with the processing of the application for examination, and, as such, may reduce the delay in the examination of the application. The failure to file a petition under 37 C.F.R. section § 1.53(c) or 1.182 (and the required petition fee) within 2 months of the 'Notice of Omitted Items' will be treated as a constructive acceptance by applicant of the application as deposited in the P.T.O." Notice of Jun. 5, 1996, 61 Fed. Reg. 30,041, 30,046.; M.P.E.P. § 601.01(d), 7th ed.

NOTE: "An applicant desiring to submit the omitted page(s) in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted page(s) with an oath or declaration in compliance with 37 section 1.63 and 1.64 referring to such page(s) and a petition under 37 section 1.182 (with the petition fee under 37 section 1.17(h)) requesting the later filing date within two months of the date of the Notice of Omitted Items' (37 section 1.181(f))." Notice of Jun. 5, 1996, 61 Fed. Reg. 30,041, 30,041. See § 601.01(d), MPEP, 7th Edition.

NOTE: ". . . in view of the relatively low filing fee for provisional applications, and the PTO's desire to minimize the processing of provisional applications, the PTO will not grant petitions under 37 section 1.182 to accept omitted page(s) or drawing(s) and accord an application filing date as of the date of such submission. Instead, the applicant should simply refile the complete provisional application." Notice of Jun. 5, 1996, 61 Fed. Reg. 30,041-30,046, at 30,044. See § 601.01(d), MPEP, 7th Edition.

1. This is in response to the

☒ "NOTICE OF OMITTED ITEMS"

☐ "NOTICE OF INCOMPLETE APPLICATION"

mailed for this application on **December 19, 2003**

☒ A copy of the

☒ "NOTICE OF OMITTED ITEMS"

☐ "NOTICE OF INCOMPLETE APPLICATION"

is enclosed.

2. Applicant asserts that the items indicated as omitted were in fact deposited with the P.T.O. with the original application papers filed on **September 24, 2003**

3. In accordance with the requirements of the Notice of June 5, 1996, 61 Fed. Reg. 30,041-30,046, (see MPEP, § 601.01(d), 7th Edition) applicant hereby:

A. Petitions under 37 section 1.53(e) for a review of the determination that the items in issue were omitted;

B. Submits the petition fee under 37 section 1.17(l) and

C. Submits the attached evidence of the deposit of the items in issue.

4. Fee Payment

☒ Attached is a ☒ check ☐ money order in the amount of \$130.00

☐ Authorization is hereby made to charge the amount of \$130.00

☐ to Deposit Account No.

☐ to Credit card as shown on the attached credit card information authorization form PTO-2038

**WARNING:** Credit card information should not be included on this form as it may become public.

☒ Charge any additional fees required by this paper or credit any overpayment to Deposit Account No. 06-0308

A duplicate of this paper is attached.

(Petition to Establish Prior Receipt in the P.T.O. of Item(s) Considered as Omitted by the P.T.O.—Response to

☐ "Notice of Omitted Items" ☐ "Notice of Incomplete Application"—Nonprovisional Application [5-11]

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5. Request for Refund For Petition Fee Under 37 CFR 1.53(e)

NOTE: "The petition fee will be refunded if it is determined that the page(s) was in fact received by the PTO with the application papers deposited on filing." MPEP, § 601.01(d), 7th Edition.

It is respectfully requested that, upon grant of the petition under 37 section 1.53(e), the petition fee be refunded by:

- ☒ a refund check  
☐ a credit to the charge authorized above

6. Provisional Request for Filling Date As of This Date of Submission of Omitted Items in Issue—Provisional Petition under 37 section 1.182.

In the event that the Petition to Establish Prior Receipt in the P.T.O. of Omitted Items in Issue does not result in a decision by the P.T.O. that the omitted items in issue were indeed received by the P.T.O. on the original filing date for this application, applicant hereby:

- (a) submits the omitted item(s) listed on the  
☐ "NOTICE OF OMITTED ITEMS"  
☐ "NOTICE OF INCOMPLETE APPLICATION;"
- (b) submits a declaration in compliance with 37 section 1.63 and 1.64 referring to such omitted item(s);
- (c) petitions under 37 section 1.182 to accept the date of this submission as the application filing date; and
- (d) submits the petition fee under 37 section 1.17(h).

7. Petition Fee for Provisional Petition under 37 section 1.182

The fee under 37 section 1.17(h) is paid as follows:

- ☐ Attached is a ☐ check ☐ money order in the amount of \$130.00
- ☐ Authorization is hereby made to charge the amount of \$130.00
- ☐ to Deposit Account No. \_\_\_\_\_
- ☐ to Credit card as shown on the attached credit card information authorization form PTO-2038

**WARNING:** Credit card information should not be included on this form as it may become public.

- ☒ Charge any additional fees required by this paper or credit any overpayment to Deposit Account No. 06-0308.

(Petition to Establish Prior Receipt in the P.T.O. of Item(s) Considered as Omitted by the P.T.O.—Response to  
☐ "Notice of Omitted Items" ☐ "Notice of Incomplete Application"—Nonprovisional Application [5-11]

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8. Request for Refund of Provisional Petition Fee under 37 section 1.182

Upon grant of the petition under 37 section 1.53(e) and the determination by the P.T.O. that the omitted items in issue were filed with the original papers filed for this application, applicant respectfully requests that the petition fee under 37 section 1.182 be refunded by:

- ☒ a refund check  
☐ a credit to the charge authorized above

Reg. No.: 28,924

Tel. No.: (216) 861-5582

Customer No.: 027885

  
SIGNATURE OF PRACTITIONER

Thomas E. Young

(type or print name of practitioner)

Fay, Sharpe, Fagan, Minnich & McKee

P.O. Address

1100 Superior Avenue, Seventh Floor  
Cleveland, Ohio 44114

- ☒ Plus EVIDENCE OF DEPOSIT OF ITEM(S) WITH APPLICATION INDICATED AS OMITTED IN THE ☒ "NOTICE OF OMITTED ITEMS" ☐ "NOTICE OF INCOMPLETE APPLICATION"—NONPROVISIONAL APPLICATION

(Petition to Establish Prior Receipt in the P.T.O. of Item(s) Considered as Omitted by the P.T.O.—Response to  
☐ "Notice of Omitted Items" ☐ "Notice of Incomplete Application"—Nonprovisional Application [5-11]

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NO. \_\_\_\_\_

Inventor/Applicant: BILL D. AL Pat. No. \_\_\_\_\_  
Title: UNAUTHORIZED REMAINING AND DISCLOSED Ser. No. \_\_\_\_\_  
Attorney Docket No. 11555-200005 Initials: EV/ALW Filed: 10/23/03  
Date: 10/23/03

☒ PATENT/DESIGN APPLICATION ☐ AMENDMENT (Due \_\_\_\_\_)  
New Application Transmittal Transmittal(s) \_\_\_\_\_  
Cont. \_\_\_\_\_ Div. \_\_\_\_\_ C-I-P \_\_\_\_\_ Provisional \_\_\_\_\_ Extension of Time (For \_\_\_\_\_ month(s))  
CPA Transmittal \_\_\_\_\_ PCT Request \_\_\_\_\_  
Declaration/Power of Atty. \_\_\_\_\_  
pgs. Specification \_\_\_\_\_  
pgs. Claims 15 total 4 independent  
pgs. Abstract 1  
Sheet(s) of drawing(s) Figs. 1-11  
formal \_\_\_\_\_ informal \_\_\_\_\_  
Preliminary Amendment \_\_\_\_\_  
Request and certification under  
35 U.S.C. 122(b)(2)(B)(i) \_\_\_\_\_  
Claim for Right of Priority \_\_\_\_\_  
Appln. \_\_\_\_\_  
Filed \_\_\_\_\_  
Priority document(s) \_\_\_\_\_  
Small Entity Statement(s) \_\_\_\_\_  
Final Fee \_\_\_\_\_ Publication Fee \_\_\_\_\_  
Response to missing parts \_\_\_\_\_

☒ ASSIGNMENT ☐ INFORMATION DISCLOSURE STATEMENT  
Transmittal \_\_\_\_\_ Confirmatory \_\_\_\_\_  
PTO Form 1449 \_\_\_\_\_ Refs. \_\_\_\_\_

☐ NOTICE OF APPEAL  
PCT DEMAND (Due \_\_\_\_\_)  
CHECK(S) in Amount \$ 2,000  
OTHER 2,000

**“DOCKETED”**

RECEIPT IS HEREBY ACKNOWLEDGED

22154 U.S. PTO  
10/669761  
09/24/03